

## SENATE BILL NO. 193

INTRODUCED BY K. BALES

A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING THE COAL SEVERANCE TAX LAW TO DELETE THE REQUIREMENT THAT TO QUALIFY FOR THE IN-STATE ELECTRICAL GENERATION TAX REDUCTION, THE ELECTRICAL GENERATION FACILITY MUST BE CONSTRUCTED PRIOR TO JANUARY 1, 2008; DELETING THE REQUIREMENT THAT THE COST OF OFFERED IN-STATE ELECTRICAL POWER BE SET BY THE PUBLIC SERVICE COMMISSION; REQUIRING DOCUMENTATION OF THE IN-STATE ELECTRICAL POWER OFFER AND COST IF REQUESTED BY THE DEPARTMENT OF REVENUE; AND AMENDING SECTION 15-35-103, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 15-35-103, MCA, is amended to read:

**"15-35-103. (Temporary) Severance tax -- rates imposed.** (1) (a) A severance tax is imposed on each ton of coal produced in the state in accordance with the following schedule:

Heating quality	Surface	Underground
(Btu per pound of coal):	Mining	Mining
Under 7,000	10% of value	3% of value
7,000 and over	15% of value	4% of value

(b) The rate of taxation for coal that meets the following conditions is one-third the applicable rate set forth in subsection (1)(a), rounded to the nearest 10th of a percent:

(i) The coal is used for the production of electricity within the state in an electrical generation facility that was constructed after December 31, 2001, ~~and before January 1, 2008.~~

(ii) The electrical producer agrees to offer, for use within the state, the first one-half of the amount of power that it produces to Montana customers and distribution services providers at a cost ~~to be set by the public service commission~~ that reflects the producer's cost of generating the electricity plus a reasonable return on investment. The electrical producer shall provide, upon request of the department, documentation of the offer and the cost involved in the offer.

(2) "Value" means the contract sales price.

~~(3) The formula that yields the greater amount of tax in a particular case must be used at each point on the schedule.~~

~~(4)(3)~~ A person is not liable for any severance tax upon 50,000 tons of the coal that the person produces in a calendar year, except that if more than 50,000 tons of coal are produced in a calendar year, the producer is liable for severance tax upon all coal produced in excess of the first 20,000 tons.

~~(5)(4)~~ In addition to the exemption described in subsection ~~(4) (3)~~, a person is not liable for any severance tax upon up to 2 million tons of coal that the person produces as feedstock for coal enhancement facilities in a calendar year, except if more than 2 million tons of coal are produced as feedstock for coal enhancement facilities in a calendar year, the producer is liable for severance tax on all coal produced as feedstock for these facilities in excess of the first 2 million tons. (Terminates December 31, 2005--sec. 5, Ch. 318, L. 1995.)

**15-35-103. (Effective January 1, 2006) Severance tax -- rates imposed.** (1) (a) A severance tax is imposed on each ton of coal produced in the state in accordance with the following schedule:

Heating quality	Surface	Underground
(Btu per pound of coal):	Mining	Mining
Under 7,000	10% of value	3% of value
7,000 and over	15% of value	4% of value

(b) The rate of taxation for coal that meets the following conditions is one-third the applicable rate set forth in subsection (1)(a), rounded to the nearest 10th of a percent:

(i) The coal is used for the production of electricity within the state in an electrical generation facility that was constructed after December 31, 2001, ~~and before January 1, 2008.~~

(ii) The electrical producer agrees to offer, for use within the state, the first one-half of the amount of power that it produces to Montana customers and distribution services providers at a cost ~~to be set by the public service commission~~ that reflects the producer's cost of generating the electricity plus a reasonable return on investment. The electrical producer shall provide, upon request of the department, documentation of the offer and the cost involved in the offer.

(2) "Value" means the contract sales price.

~~(3) The formula that yields the greater amount of tax in a particular case must be used at each point on the schedule.~~

~~(4)(3)~~ A person is not liable for any severance tax upon 50,000 tons of the coal that the person produces

- 1 in a calendar year, except that if more than 50,000 tons of coal are produced in a calendar year, the producer
- 2 is liable for severance tax upon all coal produced in excess of the first 20,000 tons."
- 3 - END -